IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 13767 of 2006(L)

PETITIONER:

P.BALACHANDRAN,
S/O.PAZHANAN, MEENU BAGH, KOZHINJAMPARA,
PALAKKAD 678 555.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, MINISTRY OF FINANCE,
CENTRAL SECRETARIATE, NEW DELHI 110 001.

2. THE DEBT RECOVERY TRIBUNAL,
V FLOOR, HOUSING BOARD BUILDING,
PANAMPILLY NAGAR, ERNAKULAM.

3. PUNJAB NATIONAL BANK, REGIONAL OFFICE,
MARKET ROAD, ERNAKULAM 682 011, REPRESENTED BY
ITS AUTHORISED OFFICER.

4. DISTRICT MAGISTRATE, PALAKKAD.

5. THE SUB DIVISIONAL MAGISTRATE,
PALAKKAD.

6. THE TAHSILDAR, CHITTUR, PALAKKAD DIST.

7. THE VILLAGE OFFICER,KOZHINJAMPARA VILLAGE,
PALAKKAD DISTRICT.

R1 SRI. AJITH KRISHNAN, ADDL.CGSC
R3 BY ADV. SRI.C.AJITH KUMAR
R2, R4 TO R7 BY GOVT. PLEADER SMT.LAKSHMI RANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/12/2006, ALONG WITH R.P.803/06, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.13767/06

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE PETITION DATED 1.9.05 FILED BY THE 3RD RESPONDENT BEFORE THE 4TH RESPONDENT, UNDER SECTION 14 OF THE SECURITISATION ACT.

EXT.P2: TRUE COPY OF THE NOTICES DATED 12.4.05 ISSUED BY THE 3RD RESPONDENT ADDRESSED TO MR.PRADEEP.

EXT.P3: TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT IN THE NAME OF MR.PRASOB.

EXT.P4: TRUE COPY OF THE ORDER NO.K.DIS.2005/36304/9/D1 DATED 28.10.05 PASSED BY THE DISTRICT MAGISTRATE, PALAKKAD.

EXT.P5: TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 13(4) OF THE SECURITISATION ACT B THE 3RD RESPONDENT ON 20.8.03.

EXT.P6: TRUE COPY OF THE INTERIM ORDER DATED 12.1.06 PASSED IN WP(C).1008/06.

EXT.P7: TRUE COPY OF THE ORDER OF THE SUB DIVISIONAL MAGISTRATE, PALAKKAD IN PROCEEDING NO.D 5223/05.

EXT.P8: TRUE COPY OF THE COMMON JUDGMENT IN WP(C).NOS.1008/06 AND 5792/06.

EXT.P9: TRUE COPY OF THE SCHEDULE OF APPLICATION FEE PRESCRIBED UNDER RULE 7 OF THE DEBT RECOVERY TRIBUNAL (PROCEDURE)RULES, 1993.

EXT.P10: TRUE COPY OF THE ORDER PASSED BY THE GOVERNMENT OF INDIA AS THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST (REMOVAL OF DIFFICULTIES) ORDER, 2004.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.13767 OF 2006,
R.P.No.803 OF 2006
& I.A.No.3723 OF 2006

Dated this the 13th day of December, 2006

JUDGMENT

1. The writ petition is by a guarantor involved in a proceedings under the Securitisation Act. On the basis of interim orders, including the one dated 19.7.2006 on the writ petition, he has remitted certain amounts and the counter affidavit filed in the review petition shows that the outstandings as on the date of the counter affidavit is Rs.68,86,878/-. It is also submitted that a further amount of Rs.10 lakhs was paid in terms of interim directions of this Court.

2. The review petition is filed seeking to modify the conditions imposed as per the interim order dated 19.7.2006. Having heard learned counsel for parties, I do not find any ground to review that interim order. However, since one or two instalments has been defaulted as of now and because the

entire amounts due to the Bank has been quantified by the Bank, the writ petition, review petition and interlocutory application seeking enlargement of time are disposed of directing that the entire amount of Rs.68,86,878/-, less any remittances made after the filing of the counter affidavit of the review petition, shall be paid by the petitioner to the Bank on or before the last working day of the calender year 2006, failing which, the impugned proceedings shall forthwith be enforced. The payment of such amount will be without prejudice to the right of the writ petitioner, if so advised and if he has a legal remedy, to agitate on the question of the total outstandings. The Bank will also ensure that all payments including Annexure I is given legitimate credit, while receiving the final payment. It is further clarified that no further time extension will be granted to the petitioner in any circumstances.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.